

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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COMMITTEE ON TRANSPORTATION AND TELECOMMUNICATIONS
March 14, 2005
Confirmation Hearing

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, March 14, 2005, in Room 1113 for the purpose of conducting a public hearing regarding the confirmation of gubernatorial appointments. Senators present: Tom Baker, Chairperson; Adrian Smith, Vice Chairperson; Ray Aguilar; Mike Foley; Carol Hudkins; Dwite Pedersen; and Arnie Stuthman. Senators absent: Pam Brown.

SENATOR BAKER: I want to welcome everyone to a confirmation hearing today before the Transportation and Telecommunications Committee. Committee members present are Senator Mike Foley, on my far left; Senator Carol Hudkins; Senator Adrian Smith; on my far right is Senator Arnie Stuthman; my committee counsel, Jill Becker; committee clerk, Pauline Bulgrin; I'm Tom Baker from Trenton; our page is Tyler Moore from Stromsburg. If any of you have any big, heavy handouts, let Tyler know; he'll take care of them for you. You know the rules. Come on up. First hearing for confirmation will be Susan Heider for the Nebraska Information Technology Commission, and she will be represented today by, I guess I'll let you state your own name and so on, Brenda.

BRENDA DECKER: Okay.

SENATOR BAKER: Thank you for being here.

CONFIRMATION HEARING ON
SUSAN HEIDER TO THE
NEBRASKA INFORMATION TECHNOLOGY COMMISSION

BRENDA DECKER: (Exhibit 1) You bet. Senator Baker, members of the Transportation and Telecommunications Committee, I am Brenda Decker. I am the chief information officer for the state of Nebraska, and I've been asked to represent NITC Commissioner Susan Heider from Scottsbluff. Commissioner Heider is the vice president for support services and chief information officer for Region West Medical Center in Scottsbluff. She has been attending committee meetings since her initial appointment by Governor Johanns, and I will give you a date of May 26, 2004. This is the first opportunity we've had to come before you and have

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confirmation by the Legislature. You have received a letter that was dated March 7 from Commissioner Heider expressing her delight to be appointed to this commission, and I am here to answer any questions you may have about her appointment and/or any other questions you may have about the NITC or technology that the committee may wish to ask.

SENATOR BAKER: Okay. Thank you. Questions from the committee? Senator Foley.

SENATOR FOLEY: How often does the NITC meet?

BRENDA DECKER: The NITC meets at a minimum, quarterly. During a budget year they actually meet more than quarterly because they do review all of the technology budget requests of the state agencies.

SENATOR FOLEY: And the commission members receive per diem only for their service?

BRENDA DECKER: Per diem only; yes.

SENATOR FOLEY: Thank you.

SENATOR BAKER: Any other questions? Senator Smith.

SENATOR SMITH: And how many are on the commission?

BRENDA DECKER: The commission consists of...a quick count here is eight members plus the chair, which is the Lieutenant Governor of the state, so there are nine members.

SENATOR SMITH: And where are the meetings held?

BRENDA DECKER: The meetings are held throughout Nebraska. We typically the meetings will be held...they will alternate between Lincoln or a point outside of Lincoln, usually hosted by a commissioner. We are actually looking at the June meeting being hosted in the Scottsbluff, Lexington, one of those two communities.

SENATOR SMITH: Oh. I thought you...it made it sound like one area.

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BRENDA DECKER: No, they are not one area; no. The reason I said it that way is we are literally looking...we anticipate that the Telehealth Network will be ready for unveiling by that point and we're hoping to either go to Scottsbluff and have the meeting at the Region West Medical Center, which is a participant, and if we're not able to do that, Lexington has also indicated they would be a place that would like to host. They are not the same area; you are right, Senator.

SENATOR SMITH: That's true.

SENATOR BAKER: Senator Hudkins.

SENATOR HUDKINS: Do you know how many meetings have been held since Ms. Heider was appointed?

SUSAN DECKER: She came on in April and I cannot tell you that she made it to the April meeting, but this would actually be a year so she would have participated in a minimum of at least four, including the meeting that is tomorrow.

SENATOR HUDKINS: All right, thank you.

SUSAN DECKER: You're welcome.

SENATOR BAKER: A question about your meeting possibly in Lexington: The Telehealth Network is set up; now Lexington is a part of it; Scottsbluff then is, too? How many other communities...this is a little off the subject maybe but if you are going to have a meeting because of is it's into Cambridge, Benkelman, Perkins County...

SUSAN DECKER: As I remember, and I'm doing this completely off memory, as...

SENATOR BAKER: Me too.

SUSAN DECKER: As I remember, the first actual connection of the Telehealth Network, which gave...actually connected everyone that already had a telehealth system or a video system that I believe was over 20 hospitals that were involved in that. By the time they rolled this out, we're probably looking close to 40 hospitals, if not more, that

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will be connected.

SENATOR BAKER: And those are connected by fiber? TE-1 lines?

SUSAN DECKER: Yes. T-1 lines.

SENATOR BAKER: T-1 lines.

SUSAN DECKER: Yes. Yes, Senator.

SENATOR BAKER: Okay, there's 40 now onto the network?

SUSAN DECKER: There are...at this point...I can get you an exact number, Senator Baker, but I know once it is finished they anticipate all hospitals in the state of Nebraska will be able to have the capability to be connected, and they are also looking at all public health entities.

SENATOR BAKER: What other cutting-edge technology are you working on right now as a commission?

SUSAN DECKER: Well, the commission has actually got several initiatives that are going. As we've in to talk to this committee before, we have the statewide backbone network that is actually a high-speed network between...it runs from Scottsbluff to North Platte, North Platte to Grand Island, Grand Island-Lincoln, Lincoln back up to Omaha and Norfolk. We're actually looking at the tier two communities. What we're doing is we're aggregating existing services and then bringing those high-speed services in to a backbone network that lets us transport services across the state. We're looking at the issue that is being dealt with--Senator Raikes' bill; I believe it's LB 689, which deals with distance learning; using that network, as well, hopefully to bring down the costs of that initiative as we move forward. We are rolling out Internet 2 which is a research network to schools, and allows schools to do distance learning and do some research capabilities at the K-12 capabilities, into schools. And, for example, we've had schools do things with NASA, actually do things with museums across the country. So we've got a lot of things that are going on that some of them will sound so technical it's like, okay, what does that mean. But truly it's an effort to bring schools and

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communities into the electronic age, and yet be able to do that in a way that's cost affordable for everyone.

SENATOR BAKER: Who is providing the infrastructure?

SUSAN DECKER: The infrastructure is actually an initiative that the state is looking to be what we call the anchor tenant. The infrastructure is actually physically provided by the local providers. Therefore since the state is not looking to go out and build its own infrastructure, we're not putting something in that the public can't use. If we can come in and be the anchor tenant for a high-speed capacity into a community, and the state is the impetus for the provider to put that into the community, then the banks and the other entities in that community can also benefit from that. Technology has moved beyond the old fights we used to have of phone company versus cable company versus Internet providers. We're looking at digital networks and we're looking at who can provide the networks for the least cost.

SENATOR BAKER: So are they put out for bid, some of this material?

SUSAN DECKER: Absolutely. Everything we have done to date is put out for bid.

SENATOR BAKER: Okay. Thank you. Senator Foley.

SENATOR FOLEY: The Telehealth Network is funded in part by Universal Service Funds, is that correct?

SUSAN DECKER: Yes, that is correct.

SENATOR FOLEY: And I am not necessarily critical of them, but I am curious to know how it was decided that USF would be a funding source for that program.

SUSAN DECKER: That was a proposal that the Nebraska Hospital Association made directly to the Public Service Commission, and I'm sorry, I wasn't at peace with that.

SENATOR FOLEY: Okay. So they made an application to the PSC and...

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SUSAN DECKER: They made an application to the Public Service Commission, right.

SENATOR FOLEY: And this was about a million dollars, I think?

SUSAN DECKER: I believe it was...I would...I am just...fuzzy memory, but I believe it was about...

SENATOR FOLEY: Yeah, ballpark.

SUSAN DECKER: ...a million dollars, yes.

SENATOR FOLEY: Is it your understanding that's going to be a continuing expenditure?

SUSAN DECKER: It's my understanding that there was a multiyear commitment made on that. I don't know about how long that commitment was. I certainly can get that information for you.

SENATOR FOLEY: Okay. I notice on the confirmation materials for the next position, we've got financial statements attached but there was none for Ms. Heider. Do you know if they were sent in properly or?

SUSAN DECKER: I believe she sent those in, but I would have to check on that.

SENATOR FOLEY: Okay. Thank you.

SUSAN DECKER: You bet.

SENATOR BAKER: Any other questions? This is our chance to ask questions of you. I don't see any others. We've been joined by Senator Dwite Pedersen, Senator Ray Aguilar. They are being quiet at the moment so there are no questions I guess, so. Thank you.

SUSAN DECKER: Thank you.

SENATOR BAKER: (Exhibit 2) We do have a letter from Susan Heider that is a part of the record. Are there any other

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people wishing to testify in support of the confirmation of Susan Heider? Any opposition? Anyone neutral? Seeing none, that would conclude our hearing for confirmation of Susan Heider. And that brings us to confirmation hearing for Jess Hull to the Nebraska Motor Vehicle Industry Licensing Board. He will be represented by...

CONFIRMATION HEARING ON
JESS HULL TO THE
MOTOR VEHICLE INDUSTRY LICENSING BOARD

WILLIAM JACKSON: (Exhibit 1) My name is William Jackson. I'm the executive director with the Motor Vehicle Industry Licensing Board for the state of Nebraska. I'm here to support Mr. Jess Hull's reappointment. He's already served his first term of three years, and the Governor has seen fit to reappoint him. Give you a little background on Mr. Hull. He is a franchise dealer. He has actually several franchises. All the Performance Stores that you see in Omaha and Lincoln, Performance Toyota, Performance Dodge, the Lexus store out here on North 27th, Performance Chrysler, Jeep and Dodge now off of 128th and Harrison, Performance Toyota. He also has an association with Talton Anderson who owns Baxter Chrysler Plymouth and such and forth. They are a very growing dealership, very good, quality group of people. And I would strongly support his renomination to the board. Currently Jess serves as the first vice chair if Beverly Neth, who is the chair of our board is absent, Jess chairs the meetings. He's very conscientious, well respected man, and very knowledgeable in the industry, and I would appreciate the committee and to vote for his appointment.

SENATOR BAKER: Okay. Questions? Yes, Senator Smith.

SENATOR SMITH: Does Mr. Hull have an opinion on Sunday sales? You don't have to answer that. Or one day in seven?

WILLIAM JACKSON: Yeah, it wasn't Sunday. It was pick your own day. No, it's a moot point.

SENATOR BAKER: Are there any other questions or comments here?

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WILLIAM JACKSON: But to answer your question truthfully, the board did not take a position on that. That's why I didn't testify.

SENATOR BAKER: How often do you meet? I know I've asked that question prior...

WILLIAM JACKSON: About once a month. Depends on the load of the agenda. If we have a lot of items going on. Normally...actually we had an extra board meeting in December because we took on this wonderful task of trying to get the advertising going. So far we have levied a \$2,000 fine to 50 dealers across the state. But if you pay attention to your papers, you're seeing a marked difference in how the dealer advertises now. It's a win-win thing for the consumer and the dealer. It's leveled the playing field between all the dealers. And the consumer is getting the information they need to make a good decision about where to go and where to shop. So it's a good thing. A lot of work but it is a good thing.

SENATOR BAKER: Where does that fine money go? Where...

WILLIAM JACKSON: We don't get to keep it naturally. It goes to the education fund--state; Department of Ed.

SENATOR BAKER: Education fund meaning the permanent school trust fund or...?

WILLIAM JACKSON: I believe so, yeah. All I know is we don't get it, so.

SENATOR BAKER: So you've levied \$2,000...you've levied \$100,000...

WILLIAM JACKSON: A hundred thousand dollars; yeah. They didn't send me a Christmas card or anything.

SENATOR BAKER: I don't imagine you are on their mailing list. Senator Smith.

SENATOR SMITH: Have they all paid it?

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WILLIAM JACKSON: Yeah. Fines. For first offense it was just \$2,000.

SENATOR DW. PEDERSEN: So they have to go to the schools.

WILLIAM JACKSON: Yeah, yeah. All the fines that the board levies for whatever reason goes to the same school fund.

SENATOR BAKER: You're saying would they go to the local districts where the dealership is located? I don't know.

WILLIAM JACKSON: No, no. It goes to the state.

SENATOR BAKER: The permanent state...

WILLIAM JACKSON: Yeah. Yeah.

SENATOR BAKER: Okay. That would make more sense where...statewide dealership.

WILLIAM JACKSON: Sure.

SENATOR BAKER: Senator Smith.

SENATOR SMITH: Have they all paid it?

WILLIAM JACKSON: I'm waiting on three right now. One did appeal to district court, and that should be ruled on fairly soon.

SENATOR SMITH: And is that considered a civil or criminal penalty?

WILLIAM JACKSON: Well, there is a criminal penalty. It's a Class III misdemeanor if it were to go to the court for...to place an illegal ad, according to the statutes.

SENATOR SMITH: But only if it goes to court.

WILLIAM JACKSON: Right. But since the board has the ability to levy administrative fines, it serves really no purpose to try to do an administrative fine and then try to take them and try to seek any criminal penalties. It's not the intent. The intent is to try to straighten the industry

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up, not to put anybody in jail.

SENATOR BAKER: Senator Foley has a question.

WILLIAM JACKSON: Yes, sir.

SENATOR FOLEY: I'm not familiar with the infraction that gave rise to the fine. Can you tell us a little bit about that?

WILLIAM JACKSON: Well, in the Motor Vehicle Industry Licensing Act, which is 60-1401 through 1443 there is an entire section that deals strictly with how a car dealer can advertise. There are 23 different sections of that particular section. There are 23 that deal directly with the dealer. So the dealer has an additional rules to live under, not just the UCC or the Federal Trade Commission. These are separate and for dealers only, such as you can't advertise that your prices are always generally lower than the competition. So you can't be a Rod Kush and say we'll beat anybody's deal. But if you put that in a car ad, you get a nice little letter from me that says...

SENATOR FOLEY: So you can't state that, that you'll beat anybody...

WILLIAM JACKSON: No. And there are several things of that similar nature. You can't use the word "invoice," you can't use the word "wholesale."

SENATOR FOLEY: What was the first word?

WILLIAM JACKSON: Invoice.

SENATOR FOLEY: Invoice.

WILLIAM JACKSON: Um-hum. The board has looked at that...

SENATOR FOLEY: So if they advertise \$100 over invoice and you get the car...

WILLIAM JACKSON: Yeah. Because when a dealer says invoice, it's misleading to begin with because that isn't what he paid for the car. So the word invoice in and by itself is

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misleading. And that's what we want to pull out of that realm. We want the customer to be able to...the consumer to look at that ad and know that, number one, it's truthful; it's all there for them; all the information they need to make a good decision about buying a vehicle. And the reason that they are extra regulated is, years ago I would imagine the Legislature has figured out that buying a vehicle in most cases is the second largest purchase you are going to make and therefore it does need to have just a little bit more regulation than Wal-Mart or so forth.

SENATOR FOLEY: What is the size of your agency?

WILLIAM JACKSON: There are five investigators in the field; there are three office staff and myself; so there are nine of us.

SENATOR FOLEY: And there are 100 dealers identified who were in violation of those.

WILLIAM JACKSON: Fifty.

SENATOR FOLEY: Fifty.

WILLIAM JACKSON: Fifty. There are 18...approximately 1,800 dealers in the state of Nebraska. That's new, used, wrecker/salvage, we also do. Anything that has a title and registration, to include manufactured housing, we license and regulate it. Plus we regulate all the manufacturers, distributors, finance companies.

SENATOR BAKER: Any other questions? Have you since put out some educational material to your membership saying these are guidelines? It obviously got out of control for awhile.

WILLIAM JACKSON: Yeah. It was just snowballing. We were trying to put out little fires here and we would stomp on this fire, then the competition down the street would see that ad run and they are running it, and investigators, only five of them, (inaudible), we were just. So August of last year I sent a letter to every dealer, along with the statutes so that they...you know, it made it readily available. And I said any violation after this date will cause a hearing in front of the Board of Vehicle Industry

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Licensing Board where your license is subject to administrative fine or revocation or suspension. We started bringing dealers in; I believe the October meeting was our first one. It started with three. In November we had eight and December we had 16. January we sent out 20 more notices. And at this time the board decided we would offer them a waiver like you would get on a traffic stop. If you don't want...if you want...not contest the violation, you just sign the waiver and send in the money. And of the 20 that I've sent out, 17 have already paid, so.

SENATOR BAKER: So they didn't suffer a suspension of their license; they just simply paid the fine and...

WILLIAM JACKSON: Again, that's not the intention of the board. But the board thought there needed to be something done, and they are right, and it's making a difference.

SENATOR BAKER: Okay. Any other questions? Seeing none, thank you, Bill.

WILLIAM JACKSON: Thank you.

SENATOR BAKER: Anyone else wishing to appear and testify for the appointment of Jess Hull? Any opposition? Neutral? Seeing none, that would conclude the hearing on Jess Hull for the Motor Vehicle Industry Licensing Board and that would conclude our hearings for today.


Chairperson


Committee Clerk